

March 31, 1992

Interstate Commerce Commission
Washington, D.C.

2-091A002

B/G

NEW NUMBER

Re: Southern Pacific Transportation Company
Equipment Trust No. 92-1

17759
RECEIVED BY FILED 143

MAR 31 1992 - 10 50 AM

Gentlemen:

INTERSTATE COMMERCE COMMISSION

Enclosed for recordation under the provisions of 49 USC 11303(a) are the original and four counterparts of an Equipment Trust Agreement dated as of March 15, 1992 (the "Equipment Trust Agreement"). Said Equipment Trust Agreement is a primary document.

A general description of the railroad equipment covered by each of the enclosed documents is set forth in Schedule A attached to this letter and made a part hereof.

The names and addresses of the parties are:

Company under Equipment Trust Agreement: Southern Pacific Transportation
Company
Southern Pacific Building
One Market Plaza
San Francisco, California 94105
Attention: Treasurer

Trustee under Equipment Trust Agreement: The Bank of New York
101 Barclay Street
New York, New York 10007
Attention: Corporate Trust Dept.

The undersigned has acted a special counsel in connection with the preparation of the enclosed document and has knowledge of the matters set forth therein.

Please return the original and three copies of each enclosed document to Ross D. Taylor, Esq., Chapman and Cutler, 111 West Monroe Street, Chicago, Illinois 60603.

Also enclosed is a check in the amount of \$20.00 covering the required recording fee.

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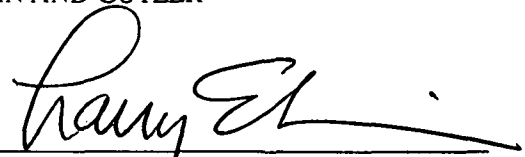
A short summary of the enclosed primary document to appear in the Index follows:

Equipment Trust Agreement between Southern Pacific Transportation Company, Southern Pacific Building, One Market Plaza, San Francisco, California 94105, and The Bank of New York, as Trustee, 101 Barclay Street, New York, New York 10007, covering 55 GP-60 Diesel Electric Locomotives built by General Motors Corporation (Electro-Motive) Division.

Very truly yours,

CHAPMAN AND CUTLER

BY


Larry Elkins

LE:svv
Enclosures

3/31/92

Interstate Commerce Commission
Washington, D.C. 20423

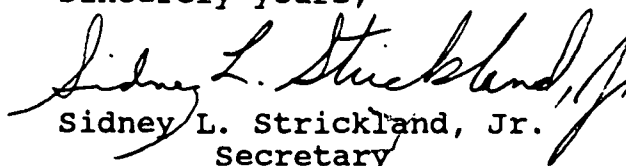
OFFICE OF THE SECRETARY

Ross D. Taylor, Esq.
Chapman And Cutler
111 West Monroe Street
Chicago, Illinois 60603

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/31/92 at 10:50am , and assigned recordation number(s). 17759

Sincerely yours,


Sidney L. Strickland, Jr.
Secretary

SOUTHERN PACIFIC TRANSPORTATION COMPANY

17759
REGISTRATION NO. _____ FILED 1488

MAR 31 1992 - 10 50 AM

INTERSTATE COMMERCE COMMISSION

Equipment Trust No. 92-1

EQUIPMENT TRUST AGREEMENT

Between

THE BANK OF NEW YORK, as Trustee,

And

SOUTHERN PACIFIC TRANSPORTATION COMPANY

Dated as of March 15, 1992

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ATTACHMENTS TO EQUIPMENT TRUST AGREEMENT:

- Schedule I — List of Equipment
- Schedule II — Debt Amortization Schedule

EQUIPMENT TRUST AGREEMENT dated as of March 15, 1992, between THE BANK OF NEW YORK, a New York banking corporation (as trustee hereunder, the "*Trustee*"), and SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation (the "*Company*").

RECITALS:

WHEREAS words and phrases not otherwise defined herein shall have the meanings assigned thereto in Article 2 of this Agreement.

WHEREAS the Company has contracted for the construction and transfer to the Trustee of the railroad equipment described herein; and

WHEREAS title to such railroad equipment is to be vested in and is to be retained by the Trustee, and such railroad equipment is to be leased to the Company hereunder until title is transferred under the provisions hereof; and

WHEREAS Southern Pacific Transportation Company Equipment Trust Certificates, Equipment Trust No. 92-1 (the "*Certificates*"), are to be issued and sold in an aggregate principal amount not exceeding \$70,281,975; and

WHEREAS the Certificates shall be in the form of the Certificate hereinafter set forth and the proceeds of the issuance thereof are to be deposited with the Trustee to constitute a fund to be known as the Southern Pacific Transportation Company Equipment Trust No. 92-1 to be applied by the Trustee from time to time as hereinafter provided; and

WHEREAS it is desired to secure to the holders of the Certificates the payment of the principal thereof and premium, if any, and interest thereon as hereinafter provided;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereto hereby agree as follows:

ARTICLE ONE FORM OF CERTIFICATE AND GUARANTEE

Section 1.01. Form of Certificate. The Certificates and the guarantee to be endorsed thereon by the Company are to be substantially in the following forms, respectively:

[FORM OF TRUST CERTIFICATE]

No.

PPN:

\$

SOUTHERN PACIFIC TRANSPORTATION COMPANY

10.19% EQUIPMENT TRUST CERTIFICATES

Equipment Trust No. 92-1

Total Authorized Issue: \$70,281,975

Maturity Date: April 1, 2007

THE BANK OF NEW YORK, as Trustee (the "*Trustee*") under an Equipment Trust Agreement dated as of March 15, 1992 (the "*Agreement*"), between the Trustee and SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation ("*Company*"), hereby certifies that

or registered assigns, is entitled to an interest in the principal amount of [_____] DOLLARS (\$_____) in the Southern Pacific Transportation Company Equipment Trust No. 92-1 due and payable in installments as hereinafter provided, and to interest on the unpaid principal amount represented by this Certificate due and payable semiannually on April 1 and October 1 in each year, commencing on October 1, 1992, at the rate of 10.19% per annum from the date hereof, or from the last interest payment date for which interest has been paid, if later, until such principal amount becomes due and payable, with interest on any overdue installment of principal, premium, if any, and interest, to the extent legally enforceable, at a rate equal to 2% per annum above the interest rate specified above (the "*Overdue Rate*"). Payments of installments of principal, premium, if any, and interest shall be made by the Trustee to the registered holder hereof at the corporate trust office of the Trustee in New York, New York, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. The Trustee will, subject to timely receipt of the rental payments, mail its check to such registered holder at its address shown on the registry books maintained by the Trustee or at such other address as may be directed in writing by such holder or, on request of the holder, the Trustee will wire funds immediately available on such date to the account of such registered holder at such bank as it may designate by notice in writing to the Trustee. Each such payment shall be made only from and out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions of the Agreement. This Certificate is prepayable out of any Deposited Cash (as defined in the Agreement) held by the Trustee and not applied to the cost of railroad equipment to be subject to the trust created by the Agreement or, at the option of the Company, out of moneys deposited in respect of Casualty Occurrences (as defined in the Agreement). Any such prepayment of this Certificate shall be at 100% of the principal amount hereof to be prepaid, together with interest accrued to the date fixed for prepayment, but without premium. The remaining principal amount of this Certificate is due and payable in 15 equal (subject to rounding to the nearest cent) annual installments on April 1 in each year from April 1, 1993, through April 1, 2007, both inclusive. Interest shall be computed hereunder on the basis of a 360-day year of twelve 30-day months.

This Certificate is one of an authorized issue of Certificates in an aggregate principal amount not exceeding the Total Authorized Issue set forth above, and issued or to be issued under the Agreement, under which certain railroad equipment leased to the Company (or cash or obligations defined in the Agreement as "*Investments*" in lieu thereof, as provided in the Agreement) is held by the Trustee in trust for the equal and ratable benefit of the holders of the Certificates issued thereunder. *Reference is made to the Agreement (a copy of which is on file with the Trustee at its principal office in New York, New York) for a more complete statement of the terms and provisions thereof, to all of which the registered holder hereof, by accepting this Certificate, assents.*

The Certificates are issuable in denominations of \$1,000 as fully registered Certificates and are exchangeable upon presentation thereof at the principal office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Agreement.

Subject to the preceding paragraph and the provisions of Section 3.03 of the Agreement, this Certificate is transferable by the registered holder hereof in person or by duly authorized attorney or agent on the books of the Trustee upon surrender to the Trustee, at its office, of this Certificate accompanied by a written instrument of transfer, duly executed by the registered holder in person or by such attorney, in form satisfactory to the Trustee, and thereupon a new fully registered Certificate or Certificates of the same maturity and rate and in authorized form and denominations will be issued to the transferee in exchange therefor. Prior to due presentment for registration of transfer, the Trustee and the Company may deem and treat the person in whose name this Certificate is registered as the absolute owner hereof for the purpose of receiving payment of principal, premium, if any, and interest and for all purposes and shall not be affected by any notice to the contrary.

The Certificates are not subject to redemption in whole or in part except as may be expressly permitted by the terms of the Agreement.

In case of the happening of an Event of Default (as defined in the Agreement) all installments of principal, premium, if any, and interest accrued thereon represented by this Certificate may become or be declared due and payable in the manner and with the effect provided in the Agreement.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be signed by one of its authorized signatories.

Dated:

THE BANK OF NEW YORK, as Trustee,

By _____
Authorized Signatory

[FORM OF GUARANTY]

GUARANTY

SOUTHERN PACIFIC TRANSPORTATION COMPANY, for a valuable consideration, hereby unconditionally guarantees to the registered holder of the within Certificate the prompt payment when due of the principal of said Certificate, and of the premium, if any, and interest thereon specified in said Certificate, with interest on any overdue principal, premium, if any, and interest, to the extent legally enforceable, at a rate equal to 2% per annum above the interest rate specified in said Certificate, all in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

SOUTHERN PACIFIC TRANSPORTATION
COMPANY

By _____
Its

ARTICLE TWO DEFINITIONS

Section 2.01. Definitions. The following terms for all purposes of this Agreement shall have the respective meanings hereinafter specified (except as otherwise expressly provided or unless the context otherwise requires):

"actual knowledge" when used with respect to the Trustee shall mean actual knowledge of an officer in the corporate trust administration department of the Trustee.

"Affiliate" of any corporation shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, such corporation. For the purposes of this definition, *"control"* (including *"controlled by"* and *"under common control with"*), as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise.

"Bankruptcy Act" shall mean the Bankruptcy Reform Act of 1978, as amended.

"Business Days" shall mean calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, are authorized or obligated to remain closed.

"Casualty Occurrence" shall have the meaning specified in Section 5.07.

"Casualty Unit" shall have the meaning specified in Section 5.07.

"Certificates" shall mean the Equipment Trust Certificates issued hereunder.

"Company" shall mean Southern Pacific Transportation Company, One Market Plaza, San Francisco, California 94105, and any successor or successors to it complying with the provisions of Section 7.04.

"Corporate Trust Office" shall mean the principal office of the Trustee in New York, New York, at which the corporate trust business of the Trustee shall, at the time in question, be administered, which office is, on the date of execution of this Agreement, located at 101 Barclay Street, New York, N.Y. 10286, attention of Corporate Trust Administration.

"Cost", when used with respect to Equipment, shall mean the actual cost thereof, and shall include only such items as may properly be included in such cost under the Interstate Commerce Commission's Uniform System of Accounts for Railroad Companies, as in effect at the time in question, or the accounting rules of such other Federal governmental authority having jurisdiction over the accounts of the Company, or, to the extent not determined thereby or in case there be no such accounting rules of the Interstate Commerce Commission

or other Federal authority in effect at such time, sound accounting practice, and, with respect to all or any portion of the Trust Equipment built by the Company, shall mean the so-called "*car builder's cost*" which shall include cost of labor and material and overhead, but shall exclude any manufacturing profit.

"*Default*" shall mean

- (1) any Event of Default; or
- (2) the occurrence and continuance of an event which, with the giving of notice or the passage of time or both, would constitute an Event of Default.

The Company shall "*be in Default*" if a Default shall have occurred and be continuing.

"*Deposited Cash*" shall mean the aggregate of (a) the proceeds from the sale of the Certificates deposited with the Trustee pursuant to Section 3.01 and, when required or indicated by the context, any Investments purchased by the use of such proceeds pursuant to the provisions of Section 9.04, (b) any rentals on deposit with the Trustee pursuant to Section 5.04(A)(1) hereof and (c) any sums restored to Deposited Cash from rentals pursuant to Section 5.04(1)(b) or 5.04(5) and on deposit with the Trustee.

"*Equipment*" shall mean standard-gauge diesel-electric locomotive railroad equipment consisting of 55 GP-60 3800 HP four axle diesel-electric locomotives manufactured by General Motors Corporation (Electro-Motive Division) and any other GP-60 3800 HP four axle diesel-electric locomotives manufactured by General Motors Corporation (Electro-Motive Division) (or other locomotives satisfactory to 66-2/3% in principal amount of the holders of then outstanding Certificates) that are substituted for such locomotives pursuant to Section 4.01 or 5.08.

"*ERISA*" shall mean the Employee Retirement Income Security Act, as amended.

"*Event of Default*" shall mean any event specified in Section 6.01 to be an Event of Default.

The word "*holder*", when used with respect to Certificates, shall mean a registered holder of Certificates and shall include the plural as well as the singular number.

"*Initial Purchasers*" shall mean the institutional investors named on Annex I to the Purchase Agreement.

"*Investments*" shall mean (i) direct obligations of the United States of America or obligations for which the full faith and credit of the United States of America is pledged to provide for the payment of principal and interest; (ii) open market commercial paper rated the highest grade by Standard & Poor's Corporation ("*S&P*") or by NCO/Moody's Commercial Paper Division of Moody's Investors Service, Inc. ("*Moody's*"), or the successor of either of them, or (iii) certificates of deposit of commercial banks in the United

States of America having a capital and surplus aggregating at least \$500,000,000 and a long term deposit rating by S&P or Moody's of AA- or Aa3 or better, in each case maturing not later than the Surplus Deposit Date.

"Officer's Certificate" shall mean a certificate signed by the President, any Vice President, the Comptroller, the Secretary, any Assistant Secretary, the Treasurer or any Assistant Treasurer of the Company.

"Opinion of Counsel" shall mean an opinion in writing signed by legal counsel who shall be satisfactory to the Trustee and who may, unless in a particular instance the Trustee shall otherwise require or this Agreement may otherwise provide, be an employee of or counsel to the Company. The acceptance by the Trustee of, and its action on, an Opinion of Counsel shall be sufficient evidence that such counsel is satisfactory to the Trustee.

"Overdue Rate" shall mean the rate of interest per annum for any overdue installment of principal, premium, if any, or interest specified in the form of Certificate set forth in Section 1.01.

"Purchase Agreement" shall mean the Purchase Agreement dated as of March 15, 1992, among the Company and the Purchasers named therein pursuant to which the Certificates are being sold.

"Request" shall mean a written request for the action therein specified, delivered to the Trustee, dated not more than 5 days prior to the date of delivery to the Trustee and signed on behalf of the Company by the President, any Vice President, the Treasurer or any Assistant Treasurer of the Company.

"Rule 144A" shall mean Rule 144A issued by the Securities and Exchange Commission under the Securities act, as from time to time in effect.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Surplus Deposit Date" shall mean March 31, 1992, or such earlier date as the Company may specify in writing to the Trustee.

"Total Authorized Issue" shall mean an aggregate principal amount not exceeding \$70,281,975 of Certificates executed and issued under Section 3.01.

"Trust Equipment" shall mean all Equipment at the time subject to the terms of this Agreement.

"Trustee" shall mean The Bank of New York, a banking corporation duly organized and existing under the laws of the State of New York, as trustee hereunder and, subject to the provisions of Article Nine, any successor as trustee hereunder.

"Value", as used herein, shall mean an amount determined as follows:

(1) The Value of any unit of Trust Equipment the rights in which are to be conveyed to the Trustee as provided in Sections 5.07 and 5.08 shall be deemed to be the lesser of (a) the actual fair value thereof, as certified by the Company to the Trustee, and (b) the Cost thereof, if new, or, in case of any Trust Equipment not new, the Cost thereof less 1/15th of such Cost for each full year elapsed between (y) the date such Trust Equipment was first put into use as certified by the Company to the Trustee and (z) the date of determination.

(2) The Value of any Casualty Unit for purposes of Sections 5.07 and 5.08, and the Value of any Trust Equipment for purposes of Section 5.09, shall be deemed to be the number of dollars bearing the same relationship to the outstanding principal amount of the Certificates as (x) the Value that such Unit would have on the date of determination, computed in accordance with the formula set forth in subparagraph (1)(b) above, bears to (y) the sum of (i) the Value of all units of Trust Equipment on the date of determination, computed in accordance with the formula set forth in subparagraph (1)(b) above, plus (ii) the amounts of Deposited Cash and cash held by the Trustee pursuant to Sections 5.07 and 5.08 that are held by the Trustee on the date of determination.

As used in this definition, all references to "Cost", and the references to "Value" in subparagraph (2), are to Cost or Value as certified by the Company to the Trustee.

The words "herein", "hereof", "hereby", "hereto", "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular Article, Section, paragraph or subdivision hereof.

ARTICLE THREE CERTIFICATES AND ISSUANCE THEREOF

Section 3.01. Issuance of Certificates. Upon the initial issue and sale of any of the Certificates, an amount equal to the principal amount of the Certificates so sold shall, forthwith upon the issuance thereof, be deposited in cash with the Trustee. Thereupon the Trustee shall issue and deliver, as the Company shall direct by Request, Certificates in the aggregate principal amount so sold.

The aggregate principal amount of Certificates which shall be executed and delivered by the Trustee under this Section shall not exceed the Total Authorized Issue and the aggregate principal amount represented by all the Certificates shall be payable as hereinafter set forth.

Section 3.02. Interests Represented by Certificates; Interest; Maturity. (a) Each of the Certificates shall represent an interest in the amount therein specified in the trust created hereunder. Subject to the provisions of Article Ten respecting prepayment of Certificates, the aggregate principal amount of the Certificates will be payable in 15 equal (subject to

rounding to the nearest cent) annual installments on April 1, in each of the years from 1993 to 2007, both inclusive, and each Certificate will bear interest on the unpaid principal amounts thereof, payable on April 1 and October 1 of each year, commencing October 1, 1992, at the rate specified thereon and with interest payable on overdue installments of principal, premium, if any, and interest at the Overdue Rate. Such payments of principal and interest shall be calculated so that the amount of principal and interest payable on each such date shall be substantially in proportion to the amount of principal and interest set forth in respect of such date in Schedule II hereto and such installments of principal shall completely amortize the principal amount of the Certificates. The Trustee shall furnish to each holder of Certificates at the time of issuance thereof a schedule showing the payments of principal and interest to be made thereon. Interest on the Certificates shall accrue from the date of original issue or from the last interest payment date for which interest has been paid, if later, and shall be calculated on the basis of a 360-day year of twelve 30-day months. If any of the dates for payment of principal or interest is not a Business Day, such payment shall be payable on the next Business Day, and no interest shall be payable thereon from and after the scheduled date for payment thereof to such next Business Day.

(b) The principal of and premium, if any, and interest on the Certificates shall be payable at the Corporate Trust Office in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, but only from and out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions hereof. Notwithstanding the provisions of the preceding sentence, in the case of payments of principal, premium, if any, and interest to be made on a Certificate, upon request and deposit of an agreement by the holder of such Certificate (the responsibility of such holder to be satisfactory to the Trustee) obligating such holder, prior to any transfer or other disposition thereof, to surrender the same to the Trustee for notation thereon of the installments of principal amount represented thereby theretofore paid in whole or in part and to cancel and promptly forward to the Trustee any Certificate once it is paid in full, on the date each such payment is due the Trustee will, subject to timely receipt of the rental payments under Section 5.04, mail its check to such registered holder at his address shown on the registry books maintained by the Trustee or at such other address as may be directed in writing by such holder or, on request of the holder, the Trustee will wire by 12:00 Noon, New York City time, funds immediately available on such date, to the account of such registered holder at such bank as it may designate by notice in writing to the Trustee (and the Company agrees to make its rental payments pursuant to Section 5.04 at such times and in such funds as will enable the Trustee to comply herewith); *provided, however*, that the deposit of such agreement shall not be required of any Initial Purchaser, of any other holders of Certificates approved in writing by the Company or of any other holders of Certificates that are "qualified institutional buyers" for purposes of Rule 144A under the Securities Act, in each case who at the time payments of principal, premium, if any, or interest are to be made, are holders of Certificates, and the Trustee shall without the deposit of such agreement make payments of principal, premium, if any, and interest (by check or wire transfer as described above) to such Initial Purchasers of Certificates or other holders at the address of each supplied to the Trustee by each such Initial Purchaser or other holder. The Company and the Trustee acknowledge and agree that the Purchase Agreement constitutes the request of each of the Initial Purchasers for all

payments in respect of the Certificates to be made by wire transfer at the address of each such Initial Purchaser set forth in Annex I to the Purchase Agreement.

Section 3.03. Form, Execution and Characteristics of Certificates. (a) The Certificates, and the guarantee to be endorsed on the Certificates by the Company as provided in Section 7.01, shall be in substantially the forms set forth in Article One.

(b) The Certificates shall be signed in the name and on behalf of the Trustee by the manual signature of one of its authorized signatory officers. In case any officer of the Trustee whose signature shall appear on any of the Certificates shall cease to be such officer of the Trustee before the Certificates shall have been issued and delivered by the Trustee or shall not have been acting in such capacity on the date of the Certificates, such Certificates shall be adopted by the Trustee and be issued and delivered as though such person had not ceased to be or had then been such officer of the Trustee.

(c) The Certificates (i) shall be issuable in denominations of \$1,000 or more; (ii) shall be registered, as to both principal and interest, in the name of the holders thereof; (iii) shall be transferable in whole or in part upon presentation and surrender thereof for transfer at the Corporate Trust Office, accompanied by appropriate instruments of assignment and transfer, duly executed by the registered holder of the surrendered Certificate or Certificates or by duly authorized attorney, in form satisfactory to the Trustee; (iv) shall be dated the date of issue; and (v) shall be exchangeable for an equal aggregate principal amount of Certificates of authorized denominations of like tenor and maturity.

(d) Anything contained herein to the contrary notwithstanding, the parties hereto may deem and treat the registered holder of any Certificates as the absolute owner of such Certificates for all purposes and shall not be affected by any notice to the contrary.

(e) The Trustee shall cause to be kept at the Corporate Trust Office books for the registration and transfer of the Certificates and, upon presentation of the Certificates for such purpose, the Trustee shall register any transfer as hereinabove provided, and under such reasonable regulations as it may prescribe.

(f) For any registration, transfer or exchange, the Trustee may require the payment of a sum sufficient to reimburse it for any governmental charge connected therewith.

(g) Each Certificate delivered pursuant to any provision of this Agreement in exchange or substitution for, or upon the transfer of the whole or any part, as the case may be, of one or more other Certificates shall carry all the rights to principal, premium, if any, and to interest accrued and unpaid and to accrue, which were carried by the whole or such part, as the case may be, of such one or more other Certificates.

(h) The Trustee shall not be required (i) to issue, register the transfer of or exchange Certificates for a period of 10 days next preceding any interest payment date, or

(ii) to issue, register the transfer of or exchange Certificates for a period of 15 days next preceding any prepayment of the Certificates..

Section 3.04. Replacement of Mutilated or Lost Certificates. In case any Certificate shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Certificate of like tenor, date and maturity, and bearing such identifying number or designation as the Trustee may determine, in exchange and substitution for, and upon cancelation of, the mutilated or defaced Certificate, or in lieu of and in substitution for the same if lost, destroyed or stolen. The Company shall execute its guaranty on any Certificates to be so delivered. The applicant for a new Certificate pursuant to this Section shall furnish to the Trustee and to the Company evidence to their satisfaction of the loss, destruction or theft of such Certificate alleged to have been lost, destroyed or stolen and of the ownership and authenticity of such mutilated, defaced, lost, destroyed or stolen Certificate, and also shall furnish such security or indemnity as may be required by the Trustee and by the Company in their discretion (which, in the case of any of the Initial Purchasers or any holder of Certificates that is a "qualified institutional buyer" (as such term is defined in Rule 144A under the Securities Act), may at the option of such Initial Purchaser or holder be in the form of an indemnification agreement executed by Initial Purchaser or holder), and shall pay all reasonable expenses and charges of such substitution or exchange. All Certificates are held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, defaced, lost, destroyed or stolen Certificates and shall preclude any and all other rights and remedies, any law or statute now existing or hereafter enacted to the contrary notwithstanding.

ARTICLE FOUR

ACQUISITION OF RIGHTS AND INTERESTS IN THE TRUST EQUIPMENT BY TRUSTEE; DEPOSITED CASH

Section 4.01. Acquisition of Equipment by Trustee. (a) The Company has caused to be constructed the Equipment described in Schedule I hereto, and will as promptly as possible cause to be constructed any substitutions therefor or additions thereto as hereinafter provided in the last paragraph of this Section 4.01.

(b) To that end, the Company hereby assigns, transfers and sets over unto the Trustee all of the rights, title and interests under the contract or contracts entered into by the Company for the construction of such Equipment. Equipment shall be delivered to the Company, which is hereby designated by the Trustee as its agent to receive such delivery, and an Officer's Certificate as to such delivery shall be conclusive evidence of such delivery.

(c) In the event that any unit of the Equipment described in Schedule I hereto shall suffer a Casualty Occurrence prior to the first to occur of such acceptance and the Surplus Deposit Date, the Company may cause other Equipment to be constructed and transferred to the Trustee and to be substituted under the trust hereby created; *provided, however*, that such substitution may only take place on or prior to the Surplus Deposit Date.

Section 4.02. Payment of Deposited Cash. Concurrently with the purchase of the Certificates by the Initial Purchasers on the Closing Date pursuant to the Purchase Agreement, which shall be the date on which the Equipment shall have been accepted by the Trustee or its agent pursuant to Section 4.01, the Trustee shall (subject, however, to the provisions of Section 4.03) pay, upon request, to the builder of the delivered Trust Equipment out of Deposited Cash then held by the Trustee the aggregate Cost of such Trust Equipment as specified in the Officer's Certificate furnished to the Trustee pursuant to Section 4.03(a).

Section 4.03. Supporting Documents. The Trustee shall not pay out any Deposited Cash against the delivery of any equipment proposed to constitute Trust Equipment unless and until it shall have received:

(a) an Officer's Certificate which shall state (i) such equipment is Equipment as defined herein, (ii) that the Equipment described and specified therein by number or numbers has been delivered to the Company as agent for the Trustee, (iii) that the Cost of such Equipment is an amount therein specified, and (iv) that such Equipment has been marked in accordance with the provisions of Section 5.10 hereof;

(b) an invoice or invoices from the builder to the Trustee for such Equipment;

(c) a bill or bills of sale of all right, title and interest in and to such Equipment from the builder thereof to the Trustee, which bill or bills of sale shall contain a warranty or guaranty to the Trustee that the title to the Equipment described therein is free from all prior claims, liens, security interests and encumbrances (including any leasehold interest therein);

(d) an Opinion of Counsel to the builder thereof to the effect that such bill or bills of sale are valid and effective, either alone or in connection with any other instrument referred to in and accompanying such opinion, to vest title to such Equipment in the Trustee free of all claims, liens, security interests and encumbrances;

(e) in case of any Equipment not specifically described in Schedule I hereto, a proper supplement hereto in respect of such Equipment and an Opinion of Counsel to the effect that such supplement has been duly executed and delivered by the Trustee and the Company and duly filed and recorded in accordance with Section 7.05 hereof; and

(f) a letter from Chapman and Cutler, special counsel to the Initial Purchasers, to the effect that the foregoing documents are satisfactory to it in form and scope.

The Trustee may rely on the letter referred to in subparagraph (f) as conclusive evidence that the documents described in subparagraphs (a) through (e) have been delivered by the

Company. Any Officer's Certificate pursuant to this Section may state that the Cost of the Equipment therein referred to is tentatively determined, subject to final adjustment to be evidenced in a final Officer's Certificate to be delivered to the Trustee on or prior to the Surplus Deposit Date.

Section 4.04. Application of Remaining Deposited Cash. In the event that on the Surplus Deposit Date, any Deposited Cash shall remain in the possession of the Trustee, the Trustee shall (a) sell all Investments in which Deposited Cash is invested then held by it and (b) apply all Deposited Cash and any amount payable in respect of loss of principal in respect of such Investments pursuant to Section 5.04(1)(b) to the prepayment of Certificates on the Surplus Deposit Date as provided herein and in Article Ten hereof; and the Company will deposit with the Trustee on or prior to the Surplus Deposit Date an amount equal to all interest accrued and unpaid to the Surplus Deposit Date on that portion of the Certificates to be prepaid.

ARTICLE FIVE LEASE OF TRUST EQUIPMENT TO THE COMPANY

Section 5.01. Lease of Trust Equipment. The Trustee does hereby let and lease to the Company all the Trust Equipment from and after the date such Trust Equipment is acquired by the Trustee to the date on which the final payment of principal, premium, if any, and interest on any Certificate is due.

Section 5.02. Equipment Automatically Subjected. As and when any Equipment shall from time to time be transferred and delivered to the Company as agent for the Trustee to become Trust Equipment, the same shall, *ipso facto* and without further instrument of lease or transfer, become subject to all the terms and provisions hereof.

Section 5.03. Additional and Substituted Equipment Subject Hereto. In the event that the Company shall, as provided in Section 4.01 or 5.08, cause to be transferred to the Trustee other Equipment in substitution for any of the Equipment herein specifically described or subjected hereto, such other Equipment shall be included as part of the Trust Equipment by supplement hereto to be executed by the Trustee and the Company and shall be subject to all the terms and conditions hereof in all respects as though it had been part of the Equipment herein specifically described. Any and all additions to, and replacements of parts of, the Trust Equipment shall constitute accessions to the Trust Equipment and shall be subject to all the terms and conditions hereof in all respects and included in the term "*Trust Equipment*" as used herein.

Section 5.04. Rental Payments. The Company hereby accepts the lease of all the Trust Equipment, and agrees to accept delivery and possession hereunder of the Trust Equipment; and the Company agrees to pay to the Trustee at the Corporate Trust Office (or, in the case of taxes, to the proper taxing authority), in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, as rental for the Trust Equipment, but when and as the same shall become due and payable (whether or not any of such amounts shall become due and payable prior to

the acceptance, delivery and lease to the Company of any unit of the Trust Equipment and whether or not at the time any of the Trust Equipment shall have been delivered to the Company), and notwithstanding that any of the Certificates shall have been acquired by the Company or shall not have been presented for payment, the following:

(1) (a) the necessary and reasonable expenses of the trust hereby created, including, without limitation, reasonable compensation to the Trustee and all expenses (including, without limitation, reasonable counsel's and agent's fees) provided for herein, and (b) an amount equal to any expenses incurred or loss of principal (including interest accrued thereupon at time of purchase) in connection with any purchase, sale or redemption by the Trustee of Investments;

(2) any and all taxes, assessments and governmental charges which the Trustee as such may be required to pay, including, without limitation, all taxes, assessments and governmental charges upon or on account of the income or property of the trust, or upon or on account of this Agreement;

(3) (a) the amounts of the interest and premium, if any, payable on the Certificates, when and as the same shall become payable, and (b) interest at the Overdue Rate from the due date, upon the amount of any installments of rental payable in respect of the principal of and, premium, if any, and interest on the Certificates which shall not be paid when due, to the extent legally enforceable, until the same shall be paid in full;

(4) the installments of principal of the Certificates, when and as the same shall become payable, whether upon the date of maturity thereof, by prepayment or by declaration or otherwise; and

(5) on the date that the final Officer's Certificate with respect to any Equipment is delivered pursuant to the last sentence of Section 4.03, the amount by which the Cost of such Equipment, as set forth in the tentative Officer's Certificate for such Equipment referred to in such sentence, exceeds the Cost of such Equipment, as set forth in such final Officer's Certificate.

Nothing contained herein or in the Certificates shall be deemed to impose on the Trustee or on the Company any obligation to pay to the registered holder of any Certificate any tax, assessment or governmental charge required by any present or future law of the United States of America, or of any state, county, municipality or other taxing authority thereof, to be paid in behalf of, or withheld from the amount payable to, the holder of any Certificate.

The Company's obligation to pay the foregoing rental is absolute and unconditional.

Section 5.05. Termination of Trust. After all payments due or to become due from the Company hereunder and under the Purchase Agreement and under the Company's guaranties endorsed on the Certificates shall have been completed and fully made to the

Trustee (1) such payments shall be deemed to represent payment of the full purchase price of the Trust Equipment, (2) any moneys remaining in the hands of the Trustee after providing for payment of all outstanding Certificates and after paying the expenses of the Trustee, including its reasonable compensation, shall be paid to the Company, (3) title to the Trust Equipment or the rights and interest therein held by the Trustee shall vest in the Company and (4) the Trustee shall execute for recordation in public offices, at the expense of the Company, such instrument or instruments in writing as reasonably shall be requested by the Company in order to make clear upon public records the Company's title to the Trust Equipment under the laws of any jurisdiction; *provided, however*, that until recordation, title to the Trust Equipment shall not pass to or vest in the Company, but title to and ownership of such Trust Equipment shall be and remain in the Trustee, notwithstanding the delivery thereof to and the possession and use thereof by the Company pursuant to this Agreement.

Section 5.06. Indemnity; Compliance with Laws. The Company agrees to indemnify and hold harmless the Trustee and the holders of the Certificates and their officers, directors, agents, employees, successors and assigns against any and all claims, costs, damages, liabilities and losses of any kind, including without limitation legal fees incurred in defending itself against any claim (as used in this Section, collectively, "*claims*"), arising out of or connected with the ownership, lease or use of any of the Trust Equipment, the exercise of any rights, powers or duties of the Trustee or the holders of the Certificates hereunder or thereunder or the creation, acceptance or administration of the trust created hereby, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the states and other jurisdictions in which the Trust Equipment, or any unit thereof, may be operated, and with all lawful acts, rules, regulations and orders of any commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment; *provided, however*, that the Company may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Certificates; *provided, further*, that neither the Trustee nor any holder of a Certificate shall be indemnified or held harmless against any claim arising from its own gross negligence or willful misconduct. The Company shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof. The indemnification obligations of the Company under this Section 5.06 shall survive the termination of this Agreement and payment in full of the Certificates.

Section 5.07. Maintenance of Trust Equipment; Casualty Occurrences. (a) The Company agrees that it will maintain and keep each unit of the Trust Equipment in good order and proper repair, in accordance with the standards of the Federal Railroad Administration, Association of American Railroads and the United States Department of Transportation, in compliance in all material respects with all applicable laws and in a condition rendering it eligible for use under normal run-through agreements with other

railroads (it being understood and agreed that any part or component added to any unit of Trust Equipment to meet any such requirements shall be deemed an accession to the Trust Equipment), all at the Company's own cost and expense, unless and until such unit is determined by the Company to be lost, stolen, destroyed, damaged beyond economic repair (in the reasonable opinion of the Company) from any cause whatsoever or condemned by any governmental authority or requisitioned by any governmental authority for a stated period in excess of three years or for an unstated period which has exceeded three years ("*Casualty Occurrence*"). Whenever any unit of the Trust Equipment (a "*Casualty Unit*") shall suffer a Casualty Occurrence, the Company shall, within 30 days after it shall have knowledge of such Casualty Occurrence, deliver to the Trustee an Officer's Certificate describing such Trust Equipment and stating the Value thereof as of the date of such Casualty Occurrence. If after such Casualty Occurrence the total Value of all Casualty Units shall exceed \$3,000,000, the Company, on or before the later of (i) 90 days after such Casualty Occurrence or (ii) the date of the next interest payment on the Certificates, shall (x) to the extent the Company elects to do so, substitute in accordance with the first paragraph of Section 5.08 other Equipment for such Casualty Unit and all other Casualty Units with respect to which no substitution or deposit has theretofore been made pursuant to this paragraph and (y) deposit with the Trustee an amount in cash equal to the excess of the total Value of such Casualty Units as of the date of the respective Casualty Occurrences with respect thereto, as certified by the Company to the Trustee, over the aggregate Value, as certified by the Company to the Trustee, of the Equipment the rights in which are substituted for such Casualty Units pursuant to clause (x) and the first paragraph of Section 5.08. At the option of the Company evidenced by a Request, cash deposited with the Trustee pursuant to this Section shall be either (1) held and applied as provided in the last paragraph of Section 5.08 or (2) applied to the prepayment of Certificates on the first scheduled date for the payment of interest or principal on the Certificates to occur after such deposit and from and after such date of prepayment no rentals shall accrue in respect of the Casualty Units as to which such prepayment has been made. Cash deposited with the Trustee pursuant to this Section with respect to Casualty Units that has not been paid over by the Trustee pursuant to the last paragraph of Section 5.08 before the second scheduled date for payment of interest or principal on the Certificates occurring on or after the date such cash was deposited shall be applied to the prepayment of the Certificates on such second scheduled date, and from and after such date of prepayment no rentals shall accrue in respect of the Casualty Units as to which such prepayment has been made.

(b) The Company will at all times, at its own expense, cause to be carried and maintained for the benefit of the Trustee and the holders of the Certificates public liability and all-risk property insurance with respect to the Trust Equipment with insurance companies having an A.M. Best rating of "B+" or better in amounts, with deductibles and against risks customary for insurance obtained by railroad companies on similar equipment, and in any event in amounts, with deductibles and against risks comparable to those provided for in insurance maintained by the Company on similar equipment owned by it. All policies of public liability insurance maintained pursuant to this paragraph shall name the Trustee (for itself and on behalf of the holders from time to time of the Certificates) and, for so long as they shall hold Certificates, the original holders of the Certificates as additional named insureds, and all policies of property insurance maintained pursuant to this paragraph shall

name the Trustee as payee under a standard mortgage loss payable endorsement in respect of the Trust Equipment.

(c) The Company shall, on an annual basis, furnish insurance certificates and other evidence of insurance with respect to insurance maintained hereunder to the Trustee and of the holders of Certificates.

(d) The Company agrees to furnish to the Trustee, prior to May 1 in each year commencing May 1, 1993, an Officer's Certificate, dated as of the preceding December 31, stating (1) the description and numbers of all units of Trust Equipment then covered by this Agreement, (2) the description and numbers of all units of Trust Equipment that have suffered a Casualty Occurrence since the date of the last preceding statement (or the date of this Agreement in the case of the first statement) and (3) that in the case of all Trust Equipment repainted or repaired since the date of the last preceding statement (or the date of this Agreement in the case of the first statement) the marks required by Section 5.10 have been preserved or that such Trust Equipment when repainted or repaired has been again marked as required thereby. The Trustee, by its agents, shall have the right, but shall be under no duty, to inspect the Trust Equipment at the then existing locations thereof at reasonable times upon reasonable notice; *provided, however*, that the Company shall not be liable for any injury to, or the death of, any agent or employee of the Trustee incurred while exercising any such right to inspect the Trust Equipment under the preceding provision of this sentence, unless the Company's own negligence is the direct cause of such injury or death. The Trustee and the holders of the Certificates may, by their agents, at reasonable times upon reasonable notice, discuss the affairs of the Company and the status of the Trust Equipment with representatives of the Company's certified public accountants, all at such reasonable times as they may request.

Section 5.08. Substitution and Replacement of Trust Equipment. (a) Upon Request, the Trustee shall, at any time and from time to time, execute and deliver a bill of sale assigning and transferring to a transferee named by the Company all the right, title and interest of the Trustee in and to any Casualty Unit; *provided, however*, that there shall be deposited with respect to such Casualty Unit pursuant to Section 5.07 cash, and there shall be transferred to the Trustee other units of Equipment having a Value (as certified by the Company to the Trustee and, if requested by the Trustee or any Initial Purchaser, confirmed by an appraisal of an independent appraiser selected by the Company and reasonably satisfactory to the Trustee and any such Initial Purchaser, with the cost of any such appraisal to be paid by the Company), not in the aggregate less than the Value (as certified by the Company to the Trustee and, if so requested, confirmed by such independent appraisal) of such Casualty Unit on the date of the Casualty Occurrence with respect thereto; *provided, further*, that no substitution contemplated under this Section shall be made if the Trustee shall have actual knowledge that the Company is then in Default.

(b) At the time of delivery of any Request pursuant to paragraph (a) of this Section, the Company shall, if other Equipment is to be conveyed to the Trustee in substitution for a Casualty Unit, deliver to the Trustee the following papers:

(1) an Officer's Certificate stating (i) the Value, as of the date of said Request, of the Casualty Unit the rights in which are so to be assigned or transferred by the Trustee, (ii) that the requested assignment or transfer by the Trustee will not impair the security under this Agreement in contravention of the provisions hereof, (iii) the Value of such substituted Equipment as of such date and the date such substituted Equipment was first put into use (or that such substituted Equipment was first put into use not earlier than a specified date), (iv) that each unit of Equipment so to be substituted has been marked as provided in Section 5.10 and is needed by the Company for revenue service, (v) that each such unit so to be substituted is Equipment as herein defined and (vi) that the Company is not in Default and that the substitution is being made as the result of a Casualty Occurrence to such Casualty Unit;

(2) a certificate, an invoice or invoices and a bill or bills of sale in respect of such substituted Equipment, as provided for in subparagraphs (a), (b) and (c) of the first paragraph of Section 4.03;

(3) an Opinion of Counsel to the effect that (i) such bill or bills of sale are valid and effective, either alone or together with any other instruments referred to in and accompanying such opinion, to vest in the Trustee title to such substituted unit free from all claims, liens, security interests and other encumbrances and (ii) that a proper supplement hereto in respect of each substituted unit has been duly executed by the Trustee and the Company and has been duly filed as required by Section 7.05;

(4) the supplement described in subparagraph (3);

(5) an Opinion of Counsel of Chapman and Cutler, special counsel to the Initial Purchasers, or other counsel reasonably satisfactory to the holders of a majority in principal amount of the then outstanding Certificates, to the effect that the Trustee will be entitled to the benefits of Section 1168 of the Bankruptcy Act with respect to such Equipment and stating that the documents described in subparagraphs (1) through (4) above are satisfactory to it in form and scope; and

(6) If requested as aforesaid, an independent appraisal provided in accordance with subparagraph (a) above confirming the items set forth in subparagraph (1)(i) and (iii).

The Trustee shall be entitled to rely on the Opinion of Counsel described in subparagraph (5) as conclusive evidence that the documents described in subparagraphs (1) through (4) have been delivered by the Company.

Cash deposited with the Trustee in respect of a Casualty Unit pursuant to Section 5.07 shall, from time to time, be paid over by the Trustee to the Company upon Request, against conveyance to the Trustee of units of Equipment having a Value, as of the date of said Request and as certified by the Company to the Trustee, not less than the amount of cash so paid, and upon delivery to the Trustee of papers corresponding to those set forth in the

second paragraph of this Section, with such appropriate modifications as may be approved by the Trustee.

Section 5.09. Possession of Trust Equipment. (a) So long as the Company is not in Default, it shall be entitled to the possession and quiet enjoyment of the Trust Equipment and the use thereof upon the lines of railroad owned or operated by it either alone or jointly with others and whether or not under sublease, or upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, the Company or over which it has trackage rights, or by and upon the lines of connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, in each case in the United States of America, Mexico or Canada, but only upon and subject to all the terms and conditions of this Agreement; *provided, however*, that at no time shall the Company make other than incidental use of any unit of Trust Equipment in Mexico, which incidental use shall in no event involve an aggregate Value of units of Trust Equipment exceeding 5% of the aggregate Value of all Trust Equipment at such time.

(b) Except as otherwise provided in this Section and in Section 7.04, the Company will not assign or transfer its rights hereunder, or transfer or sublet the Trust Equipment or any part thereof, without the prior written consent of the Trustee; and the Company shall not, without such written consent, except as herein provided, including pursuant to the preceding paragraph, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment. The appointment of a receiver or receivers in equity or reorganization or a trustee or trustees in bankruptcy or reorganization for the Company or for its property shall not be deemed an unauthorized assignment unless the same shall constitute an Event of Default.

(c) Any sublease of Trust Equipment permitted by the preceding paragraph shall be, and shall expressly provide that it is, subject and subordinate in all respects to the rights and remedies of the Trustee hereunder with respect to the Trust Equipment covered by such sublease upon the occurrence of an Event of Default. Any such sublease may provide that, subject to the preceding sentence and to Section 5.09(d), the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the Trust Equipment included in such sublease and the use thereof.

(d) The Trustee shall have the right to declare the sublease provided for herein terminated in case of any unauthorized assignment or transfer of the Company's rights hereunder or in case of an Event of Default.

Section 5.10. Marking of Trust Equipment. (a) The Company agrees that, at the time of delivery to the Company as agent for the Trustee pursuant to this Agreement of each unit of Equipment, there shall be plainly, distinctly, permanently and conspicuously marked on each side of such unit, in letters not less than one inch in height:

**"OWNERSHIP SUBJECT TO A SECURITY
AGREEMENT FILED WITH THE INTERSTATE
COMMERCE COMMISSION"**

or other similar words approved in an Opinion of Counsel delivered to the Trustee.

(b) In case, prior to the termination of the lease provided for in this Article Five, any of such marks shall at any time be removed, defaced, obliterated or destroyed, the Company shall cause the same to be restored or replaced. The Company shall not change, or permit to be changed, the numbers of any of the Trust Equipment at any time covered hereby (or any numbers which may have been substituted as herein provided) except in accordance with a statement of new numbers to be substituted therefor which previously shall have been filed with the Trustee and which shall be filed and recorded by the Company in like manner as this Agreement.

(c) The Trust Equipment may be lettered in any appropriate manner for convenience of identification of the leasehold interest of the Company therein, and may also be lettered, in case of a sublease of any Trust Equipment made pursuant to Section 5.09, in such manner as may be appropriate for convenience of identification of the subleasehold interest therein; but the Company, during the continuance of the lease provided for herein, will not allow the name of any person, firm, association or corporation to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership thereof by the Company or by any person, firm, association or corporation other than the Trustee.

**ARTICLE SIX
EVENTS OF DEFAULT AND REMEDIES**

Section 6.01. Events of Default. (a) The Company covenants and agrees that in case:

(i) the Company shall default in the payment of (A) any part of the rental payable under Section 5.04 or (B) any amount payable under Section 5.07 hereof, in either case for more than 5 Business Days after the same shall have become due and payable, or

(ii) the Company shall make or suffer any unauthorized assignment or transfer of its rights hereunder or shall make any unauthorized transfer or sublease of any of the Trust Equipment, or, except as herein authorized, shall part with the possession of any of the Trust Equipment, or

(iii) default shall be made in the performance of any other term or provision hereof or in the Purchase Agreement, and such default shall continue for 30 days after written notice from the Trustee to the Company specifying the default and demanding that the same be remedied, or

(iv) any representation or warranty made by the Company herein or in the Purchase Agreement or in any agreement, document or certificate required to be delivered by the Company pursuant hereto or thereto shall prove to have been incorrect in any material respect when made or given, or

(v) a petition for reorganization under Title 11 of the United States Code, as now constituted or as such Title 11 may be hereafter amended, shall be filed by or against the Company, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), and any of the obligations of the Company under this Agreement, the Purchase Agreement or the Company's guaranty endorsed on the Certificates shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings (whether or not such appointment is subject to ratification) or otherwise, in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees within 60 days after such proceedings shall have been commenced and otherwise in accordance with the provisions of 11 U.S.C. §1168, or any successor provision, or

(vi) any other proceedings shall be commenced by or against the Company for any relief under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder), unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), and any of the obligations of the Company under this Agreement, the Purchase Agreement or the Company's guaranty endorsed on the Certificates shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Company or for the property of the Company in connection with any such proceedings (whether or not such appointment is subject to ratification) or otherwise, in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier,

then, in any such case (herein sometimes called an "*Event of Default*"), the Trustee upon the written request of the holders of 25% in principal amount of the then outstanding Certificates shall, by notice in writing delivered to the Company, declare to be due and payable forthwith the entire amount of the rentals thereafter (including any unpaid advance rental, but excluding rentals required for the payment of interest accruing after the date of such declaration) payable by the Company as set forth in Section 5.04 and not theretofore paid. Thereupon the entire amount of such rentals shall forthwith become and shall be due and payable immediately without further demand, together with interest at the Overdue Rate, to the extent legally enforceable, on any portion thereof overdue.

(b) In case one or more Events of Default shall happen, the Trustee upon the written request of the holders of 25% in principal amount of the then outstanding Certificates shall, by notice in writing delivered to the Company, declare the principal of all the Certificates then outstanding and all accrued but unpaid interest and premium thereon to be due and payable, and thereupon the same shall become and be immediately due and payable.

(c) In case the Company shall fail to pay any installment or rental payable pursuant to Section 5.04 in respect of the principal of, or interest or premium, if any, on, the Certificates when and as the same shall have become due and payable hereunder, and such failure shall have continued for a period of ten days, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the rentals so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree and may enforce any such judgment or final decree against the Company or other obligor upon the Certificates and collect in the manner provided by law out of the property of the Company or other obligor upon the Certificates wherever situated the moneys adjudged or decreed to be payable.

(d) In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor upon the Certificates under any bankruptcy act or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company or such other obligor, or in case of any other judicial proceedings relative to the Company or such other obligor or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the rental payments hereunder or the principal amount of the Certificates shall then be due and payable as herein or therein expressed whether by declaration or otherwise and irrespective of whether the Trustee shall have made any demand or declaration pursuant to the provisions of this Section, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the entire amount of the rentals then or thereafter payable (including any unpaid advance rental, but not including rentals required for the payment of interest accruing after the date of such declaration) and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee, its agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its gross negligence or willful misconduct) and of the holders of the Certificates allowed in such proceedings and to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute all amounts received with respect to the claims of the holders of the Certificates and of the Trustee on their behalf; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the holders of the Certificates to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the holders of the Certificates, to pay to the Trustee such amount as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its gross negligence or willful misconduct.

(e) All rights of action and to assert claims under this Agreement or under any of the Certificates may be enforced by the Trustee without the possession of any of the Certificates or the production thereof at any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall be for the ratable benefit of the holders of the Certificates. In any proceedings brought by the Trustee (and also any proceedings involving the interpretation of any provision of this Agreement to which the Trustee shall be a party) the Trustee shall be held to represent all the holders of the Certificates, and it shall not be necessary to make any holders of the Certificates parties to such proceedings.

Section 6.02. Remedies. In case of the happening and continuance of any Event of Default, the Trustee shall have and may exercise all rights of a secured party under Article 9 of the Uniform Commercial Code of any applicable jurisdiction and may by its agents enter upon the railroad lines and any and all other premises of the Company and any of its Affiliates or sublessees (or other persons having acquired the use of the Trust Equipment) where any of the Trust Equipment may be and take possession of all or any part of the Trust Equipment and withdraw the same from said lines and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid per diem, mileage or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease or otherwise contract for the use of the Trust Equipment or any part thereof, or with or without retaking possession thereof (but only after declaring due and payable the entire amount of rentals payable by the Company and the principal of all the then outstanding Certificates, as provided in Section 6.01) may sell the same or any part thereof, free from any and all claims of the Company at law or in equity in one lot and as an entirety or in separate lots, at public or private sale, for cash or upon credit, in its discretion, and may proceed otherwise to enforce its rights and the rights of the holders of the then outstanding Certificates, all subject to any mandatory requirements of law applicable thereto. The Company agrees that to the extent that mandatory requirements of applicable law require the giving of reasonable notice, ten days' notice shall be reasonable notice. Upon any such sale, the Trustee itself may bid for the property offered for sale or any part thereof. Any such sale may be held at such place and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that the Company may and shall have a reasonable opportunity to bid at any such sale. Upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Company shall cease to have any rights or remedies in respect of the Trust Equipment hereunder, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company, and no payments theretofore made by the Company for the rent or use of the Trust Equipment or any of it shall give to the Company any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of interests hereunder. No such taking possession, withdrawal, lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company of rentals then or thereafter due and payable or of principal, premium, if any, and

interest in respect of the Certificates, and the Company shall be and remain liable for the same until such sums have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the obligations of the Company under this Agreement.

Section 6.03. Application of Proceeds. (a) If the Trustee shall exercise any of the powers conferred upon it by Sections 6.01 and 6.02, all payments made by the Company to the Trustee, and the proceeds of any judgment collected from the Company by the Trustee, and the proceeds of every sale or lease by the Trustee of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under any of the provisions hereof (other than sums held in trust for the payment of specific Certificates or a part thereof, or interest thereon), shall be applied by the Trustee to the payment, in the following order of priority, (a) of all proper charges, expenses (including reasonable counsel's and agents' fees) or advances made or incurred by the Trustee in accordance with the provisions of this Agreement and (b) of the interest then due, with interest on overdue interest at the Overdue Rate, to the extent legally enforceable, of premium, if any, with interest thereon at the Overdue Rate, to the extent legally enforceable, and of the principal of all the outstanding Certificates, with interest thereon at the Overdue Rate, to the extent legally enforceable, from the last preceding interest payment date, whether such Trust Certificates shall have then matured by their terms or not, all such payments to be in full if such proceeds shall be sufficient, and if not sufficient, then first to interest, then to premium and then to principal.

(b) After all such payments shall have been made in full, the title to any of the Trust Equipment remaining unsold shall be conveyed by the Trustee to the Company free from any further liabilities or obligations to the Trustee hereunder. If after applying all such sums of money realized by the Trustee as aforesaid there shall remain any amount due to the Trustee under the provisions hereof, the Company agrees to pay the amount of such deficit to the Trustee. If after applying as aforesaid the sums of money realized by the Trustee, there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Company.

Section 6.04. Waivers of Default. (a) Prior to the declaration of the acceleration of the maturity of the rentals and of the maturity of all the Certificates as provided in Section 6.01, the holders of 66-2/3% in principal amount of the then outstanding Certificates may on behalf of the holders of all the Certificates waive any past Default and its consequences, except a Default in the payment of any installment of rental then due and payable pursuant to Section 5.04 in respect of the principal of, or premium, if any, or interest on, the Certificates, but no such waiver shall extend to or affect any subsequent Default or impair any right consequent thereon.

(b) If at any time after the principal of all the Certificates shall have been declared and become due and payable or if at any time after the entire amount of rentals shall have been declared and become due and payable, all as provided in Section 6.01, all arrears of rent (with interest at the Overdue Rate upon any overdue installments, to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all

expenses of the trust occasioned by the Default, and all other sums which shall have become due and payable by the Company hereunder shall be paid by the Company before any sale or lease by the Trustee of any of the Trust Equipment, and every other Default shall be made good or secured to the satisfaction of the Trustee and the holders of 66-2/3% in principal amount of the then outstanding Certificates, then, and in every such case, the Trustee, if so requested by the holders of 66-2/3% in principal amount of the then outstanding Certificates, shall by written notice to the Company waive the Default by reason of which there shall have been such declaration or declarations and the consequences of such Default, but no such waiver shall extend to or affect any subsequent Default or impair any right consequent thereon.

Section 6.05. Obligations of Company Not Affected by Remedies. No retaking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease or sale thereof, nor any action or failure or omission to act against the Company or in respect of the Trust Equipment, on the part of the Trustee or on the part of the holder of any Certificate, nor any delay or indulgence granted to the Company by the Trustee or by any such holder, shall affect the obligations of the Company hereunder or the obligations of the Company under the guarantee endorsed on the Certificates. The Company hereby waives presentation and demand in respect of any of the Certificates and waives notice of presentation, of demand and of any Default in the payment of the principal of and premium, if any, and interest on the Certificates.

Section 6.06. Company To Deliver Trust Equipment to Trustee. In case the Trustee shall rightfully demand possession of any of the Trust Equipment pursuant to this Agreement, the Company will, at its own expense, forthwith and in the usual manner and at usual speed, cause such Trust Equipment to be drawn to such point or points as shall reasonably be designated by the Trustee on the lines of the Company and will there deliver or cause to be delivered the same to the Trustee; or, at the option of the Trustee, the Trustee may keep such Trust Equipment, at the expense of the Company, on any lines of railroad or premises approved by the Trustee until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish, without charge for rent, storage or insurance, the necessary facilities at any convenient point or points selected by the Trustee. Such delivery of Trust Equipment to the Trustee and such storage shall not alter the Company's other obligations under this Agreement, including, without limitation, the Company's obligations to maintain and insure the Trust Equipment. The performance of the foregoing covenant is of the essence of this Agreement and upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

Section 6.07. Trustee To Give Notice of Default. The Trustee shall give to the holders of the Certificates notice of each Default hereunder known to the Trustee promptly (and in any event within ten days) after it has actual knowledge thereof.

Section 6.08. Control by Holders of Certificates. The holders of a majority in principal amount of the then outstanding Certificates, by an instrument or instruments in writing executed and delivered to the Trustee, shall have the right to direct the time, method

and place of conducting any proceeding for any lawful remedy available to the Trustee or exercising any trust or power conferred on the Trustee. In the event that there shall occur an Event of Default under Section 6.01(a)(i)(A) or that the Trustee shall have actual knowledge of the occurrence of any other Event of Default, the Trustee shall take such lawful action and assert such rights as shall be agreed upon by the holders of a majority in principal amount of the then outstanding Certificates and as shall be set forth in an instrument or instruments in writing executed and delivered to it by such holders, except that the Trustee shall declare an Event of Default under Section 6.01 of the Agreement and commence an action for amounts owing upon the request of holders of 25% in principal amount of the then outstanding Certificates; and the Trustee shall, to the extent not reimbursed by the Company, be indemnified, protected and held harmless by the holders of the Certificates against any and all claims, losses, costs, damages, liabilities and expenses in connection any such action taken in accordance with the direction of the holders of the Certificates.

Section 6.09. Limitations on Suits by Holders of Certificates. No holder of any Certificate shall have any right by virtue of or by availing of any provision of this Agreement to institute any action or proceeding at law or in equity or in bankruptcy or otherwise, upon or under or with respect to this Agreement, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless such holder previously shall have given to the Trustee written notice of a Default and of the continuance thereof, as herein provided, and unless also the holders of a majority in principal amount of the then outstanding Certificates shall have made written request to the Trustee to institute such action or proceeding in its own name as trustee hereunder and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee for 30 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such action or proceeding and no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 6.08; and no one or more holders of Certificates shall have any right in any manner whatever to affect or prejudice the rights of any other holder of Certificates, or to obtain or seek to obtain priority over any other such holder or to enforce any right under this Agreement, except in the manner herein provided and for the equal, ratable and common benefit of all holders of Certificates. For the protection and enforcement of the provisions of this Section, each and every holder of a Certificate and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Section 6.10. Unconditional Right of Holders of Certificates To Sue for Principal, Premium and Interest. Notwithstanding any other provision in this Agreement, the right of any holder of any Certificate to receive payment of the principal of, and premium, if any, and interest on, such Certificate, when and as the same shall become due and payable hereunder, whether by acceleration or otherwise, or to institute suit for the enforcement of any such payment, shall not be impaired or affected without the consent of such holder, except no such suit shall be instituted if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the title reserved under this Agreement upon any property subject hereto.

Section 6.11. - Remedies Cumulative; Subject to Mandatory Requirements of Law. The remedies in this Agreement provided in favor of the Trustee and the holders of the Certificates shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity; and such remedies shall be subject in all respects to any mandatory requirements of law at the time applicable thereto, to the extent such requirements may not be waived on the part of the Company.

ARTICLE SEVEN

ADDITIONAL AGREEMENTS BY THE COMPANY

Section 7.01. Guarantee of Company. The Company absolutely and unconditionally guarantees that the holder of each of the Certificates shall receive the principal amount thereof, in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts, when and as the same shall become due and payable, in accordance with the provisions thereof or of this Agreement (and, if not so paid, with interest thereon until paid at the Overdue Rate, to the extent legally enforceable), and shall receive the premium, if any, and interest thereon in like money at the rate specified therein, at the times and place and otherwise as expressed in the Certificates and this Agreement (and, if not so paid, with interest thereon until paid at the Overdue Rate, to the extent legally enforceable); and the Company agrees to endorse upon each of the Certificates, at or before the issuance and delivery thereof by the Trustee, its guarantee of the prompt payment of the principal thereof and of the premium, if any, and interest thereon, in substantially the form herein set forth. Any holder of a Certificate may sue the Company on said guarantee without first resorting to any remedy hereunder. Said guarantee so endorsed shall be signed in the name and on behalf of the Company by the manual or facsimile signature of its President, a Vice President or the Treasurer. In case any officer of the Company whose signature shall appear on said guarantee shall cease to be such officer before the Certificates shall have been issued and delivered by the Trustee, or shall not have been acting in such capacity on the date of the Certificates, such guarantee shall nevertheless be as effective and binding upon the Company as though the person who signed said guarantee had not ceased to be or had then been such officer.

Section 7.02. Discharge of Liens. (a) The Company will pay and discharge, or make adequate provision for the payment or discharge of, any debt, tax, charge, assessment, obligation or claim which if unpaid might become a lien or charge upon or against any of the Trust Equipment; but this provision shall not require the payment of any such debt, tax, charge, assessment, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings and the Company shall have set aside adequate reserves on its books in connection with the same; *provided, however*, that such contest will not materially endanger the rights or interests of the Trustee or of the holders of the Certificates and, if requested by the Trustee at the direction of the holders of Certificates, the Company shall have furnished the Trustee with an Officer's Certificate, supported, if also requested, as to all legal matters by an Opinion of Counsel, to such effect.

(b) If the Company does not forthwith pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any such debt,

tax, charge, assessment, obligation or claim as required by this Section, the Trustee may, but shall not be obligated to, pay and discharge the same and any amounts so paid shall be secured by and under this Agreement until reimbursed by the Company.

Section 7.03. Further Assurances. The Company agrees to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and the intent hereof.

Section 7.04. Merger, Consolidation or Sale of Assets. The Company agrees not to merge or consolidate with any other corporation or to convey, sell, assign, transfer or lease all or substantially all of the property of the Company to any other corporation unless the survivor of such merger or consolidation or such transferee shall be a solvent corporation organized under the laws of the United States of America or a state thereof or the District of Columbia and such survivor or such transferee (if not the Company) shall assume all the obligations and liabilities of the Company hereunder and as guarantor of the Certificates and, immediately after giving effect to the transaction, shall not be in Default.

Section 7.05. Recording. (a) The Company will, promptly after the execution and delivery of this Agreement (and prior to the delivery of any Trust Equipment to the Trustee hereunder) and each supplement hereto, respectively, cause this Agreement and each such supplement to be duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303 and to be duly deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and shall provide for publication of notice of such deposit in The Canada Gazette in accordance with said Section 86. The Company will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register and record any and all further instruments required by the law of any jurisdiction in which use of the Equipment is permitted by Section 5.09 or reasonably requested by the Trustee for the purpose of proper protection of the rights and interests of the Trustee and the rights of the holders of the Certificates and of fully carrying out and effectuating this Agreement and the intent hereof.

(b) Promptly after the execution and delivery of each supplement hereto, the Company will furnish to the Trustee an Opinion of Counsel stating that, in the opinion of such counsel, such supplement has been properly recorded and filed so as to effectively protect the title of the Trustee to the Trust Equipment and its rights and the rights of the holders of the Certificates thereunder and hereunder as provided in the next preceding paragraph and reciting the details of such action.

Section 7.06. Company to Make Payments Provided for. The Company covenants and agrees to make payment of the reasonable expenses and compensation of the Trustee, and of all taxes, assessments and governmental charges herein mentioned for which the Trustee, as such, may be liable and of the rental and of the other amounts provided for herein.

Section 7.07. Repurchase of Certificates. Neither the Company nor any Affiliate thereof, directly or indirectly, may repurchase or make any offer to repurchase any Certificate unless the offer has been made to repurchase Certificates, pro rata, from all holders of the Certificates at the same time and upon the same terms. Neither the Trustee nor any Affiliate thereof, directly or indirectly, may purchase or make any offer to purchase any Certificates. In case the Company or any Affiliate thereof repurchases any Certificates, such Certificates shall be cancelled and no Certificates shall be issued in substitution therefor.

ARTICLE EIGHT CONCERNING THE HOLDERS OF CERTIFICATES

Section 8.01. Evidence of Action Taken by Holders of Certificates. Whenever in this Agreement it is provided that the holders of a specified percentage in aggregate unpaid principal amount of the Certificates may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such specified percentage have joined therein may be evidenced by any instrument or any number of instruments of similar tenor executed by holders of Certificates in person or by agent or proxy appointed in writing.

Section 8.02. Proof of Execution of Instruments and of Holding of Certificates.
(a) The execution of any instrument by a holder of Certificates or his agent or proxy may be proved by the certificate of any notary public or other officer of any jurisdiction within the United States of America or Canada authorized to take acknowledgments of deeds to be recorded in such jurisdiction that the person executing such instrument acknowledged to him the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or other such officer.

(b) The ownership of Certificates may be proved by the register of such Certificates or by a certificate of the registrar thereof.

Section 8.03. Certificates Owned by Company. In determining whether the holders of the requisite principal amount of the Certificates have concurred in any direction, request or consent under this Agreement, Certificates which are owned by the Company or by any other obligor on the Certificates or by an Affiliate of the Company or any other such obligor shall be disregarded, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, request or consent, only Certificates of which the Trustee has actual knowledge that they are so owned shall be disregarded.

Section 8.04. Right of Revocation of Action Taken. At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the holders of the required percentage in principal amount of the then outstanding Certificates specified in this Agreement, any holder of a Certificate may, by filing written notice with the Trustee at its Corporate Trust Office and upon proof of holding as provided in Section 8.02, revoke such action insofar as concerns such Certificate. Except as

aforesaid, any such action taken by the holder of any Certificate shall be conclusive and binding upon such holder and upon all future holders and owners of such Certificate and of any Certificate issued in exchange or substitution therefor, irrespective of whether or not any notation in regard thereto is made upon such Certificate. Any action taken by the holders of the required percentage in principal amount of the then outstanding Certificates specified in this Agreement shall be conclusive and binding upon the Company, the Trustee and the holders of all the Certificates.

Section 8.05. Amendment or Waiver. Any provision of this Agreement may be amended or waived with the written consent of the holders of not less than 66-2/3% in principal amount of the then outstanding Certificates (unless otherwise specifically provided in this Agreement); *provided, however*, that without the consent of the holders of 100% in principal amount of the then outstanding Certificates no such amendment or waiver shall (1) reduce the amount of principal, change the amount or dates of payment of installments of principal or change the rate or the time of payment of the premium, if any, or interest with respect to the Certificates without the consent of the holder of each Certificate so affected, (2) change the amount of or the time of payment of any rentals payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement, or (3) reduce the percentage of the aggregate unpaid principal amount of Certificates then outstanding, the holders of which are required to approve any amendment or to effect any waiver. For purposes of the foregoing, a supplement hereto executed pursuant to Section 7.05 shall not constitute an amendment or waiver of this Agreement.

ARTICLE NINE THE TRUSTEE

Section 9.01. Acceptance of Trust. The Bank of New York hereby accepts the trust created by this Agreement and agrees to perform the same as herein expressed.

Section 9.02. Duties and Responsibilities of the Trustee. (a) The Trustee shall promptly furnish to each holder of a Certificate a copy of any notice or other communication received by it from the Company pursuant to this Agreement.

(b) In case an Event of Default has occurred pursuant to Section 6.01(a)(i)(A), or the Trustee has actual knowledge that any other Event of Default has occurred (in each case, which has not been cured), the Trustee shall exercise such of the rights and powers vested in it by this Agreement as it is instructed pursuant to Section 6.08.

(c) No provision of this Agreement shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(i) prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred:

(A) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Agreement, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee; and

(B) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Agreement and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement;

(ii) the Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts or that its action or inaction was contrary to the express provisions of this Agreement or any instructions conforming to the requirements of this Agreement;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of the required percentage of principal amount of the then outstanding Certificates specified in this Agreement, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Agreement;

(iv) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, Certificate, guarantee or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument;

(v) the Trustee may consult with counsel of its choice, and any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with such Opinion of Counsel and not contrary to any express provisions of this Agreement or any instructions conforming to the requirements of this Agreement;

(vi) the Trustee shall be under no obligation to exercise any of its rights or powers vested in it by this Agreement at the request, order or direction of any of the holders of the Certificates, pursuant to the provisions of this Agreement, unless such holders shall have offered to the Trustee reasonable security or indemnity reasonably

satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred therein or thereby; and

(vii) the Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Agreement and the instructions conforming to the requirements of this Agreement.

Section 9.03. Application of Rentals. (a) The Trustee agrees to apply the rentals received by it under Section 5.04 when and as the same shall be received, and to the extent that such rentals shall be sufficient therefor, for the purposes specified in Section 5.04.

(b) The Trustee shall not be required to undertake any act or duty in the way of insuring, taking care of or taking possession of the Trust Equipment or to undertake any other act or duty under this Agreement until fully indemnified on terms reasonably satisfactory to the Trustee by the Company or by one or more of the holders of the Certificates against all liability and expenses; and the Trustee shall not be responsible for the filing or recording or refiling or rerecording of this Agreement or of any supplement hereto or statement of new numbers.

Section 9.04. Funds May Be Held by Trustee; Investments. (a) Any funds at any time paid to or held by the Trustee hereunder until paid out by the Trustee as herein provided may be carried by the Trustee on deposit with itself without allowing interest thereon.

(b) Any moneys at any time held by the Trustee or any paying agent hereunder shall, until paid out or invested by the Trustee or any paying agent as herein provided, be held by it in trust as herein provided for the benefit of the holders of the Certificates.

(c) At any time, and from time to time, if at the time no Event of Default shall have occurred and be continuing, the Trustee, on Request, shall invest and reinvest Deposited Cash held by it or cash deposited with it pursuant to Section 5.07 or Section 5.08 (hereinafter in this Section called "*Replacement Funds*") in Investments, at such prices, including any premium and accrued interest, as are set forth in such Request (which Request shall state that such prices are not in excess of fair market value at the time of such Request), such Investments to be held by the Trustee in trust for the benefit of the holders of the Certificates. If the Trustee shall make any Investments under this paragraph, such Investments shall be at the risk of the Company.

(d) The Trustee shall, on Request, or the Trustee may, in the event funds are required for payment against delivery of Trust Equipment or for payment of the principal of or the premium, if any, or interest on any Certificate, sell such Investments, or any portion thereof, and restore to Deposited Cash or Replacement Funds, as the case may be, the proceeds of any such sale up to the amount paid for such Investments, including accrued interest, or apply such for payment against delivery of Trust Equipment or for payment of said principal, premium, if any, or interest if and to the extent such proceeds are needed therefor pursuant to the provisions of this Agreement.

(e) The Trustee shall restore to Deposited Cash or Replacement Funds, as the case may be, out of rent received by it for that purpose under the provisions of Section 5.04(1)(b), an amount equal to any expenses incurred in connection with any purchase or sale of Investments and also an amount equal to any loss of principal incident to the sale or redemption of any Investments for a sum less than the amount paid therefor, including accrued interest.

(f) The Company, if not in Default pursuant to Section 6.01(a)(i)(A) and not otherwise to the actual knowledge of the Trustee in Default, shall upon Request (which Request shall certify that the Company is not in Default) be entitled to receive any interest allowed as provided in Section 9.04(c) and any interest (in excess of accrued interest paid from Deposited Cash or Replacement Funds at the time of purchase) or other profit which may be realized from any sale or redemption of Investments.

Section 9.05. Trustee Not Liable for Delivery Delays or Defects in Equipment or Title. (a) The Trustee shall not be liable to anyone for the recitals hereof, or for any delay in the delivery of any of the Trust Equipment, or for any default on the part of the manufacturer thereof or of the Company, or for any defect in any of the Trust Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation on the part of the Trustee in respect of the value thereof or in respect of the title thereto or otherwise.

(b) The Trustee may perform its powers and duties with respect to the delivery and acceptance of the Trust Equipment by or through such attorney, agents and servants as it shall appoint, and shall be answerable only for its own acts, negligence and willful defaults and not for the default or misconduct of any attorney, agent or servant appointed by it in respect thereof with reasonable care.

(c) The Trustee shall be entitled to receive payment of all of its expenses hereunder, including reasonable counsel fees, and to receive reasonable compensation for all services rendered by it in the execution of the trust hereby created, all of which shall be paid by the Company.

(d) The Trustee in its individual capacity may not own, hold and dispose of Certificates.

Section 9.06. Resignation and Removal; Appointment of Successor Trustee. (a) The Trustee may resign and be discharged of the trust created by this Agreement by giving 60 days' written notice to the Company and the registered holders of the then outstanding Certificates and such resignation shall take effect upon receipt by the Trustee of an instrument of acceptance executed by a successor trustee as hereinafter provided in Section 9.07.

(b) The Trustee may be removed at any time by an instrument in writing signed by the holders of a majority in principal amount of the then outstanding Certificates, delivered to the Trustee and to the Company.

(c) If at any time the Trustee shall resign or be removed or otherwise become incapable of acting or, if at any time a vacancy shall occur in the office of the Trustee for any other cause, a successor trustee may be appointed by the holders of a majority in principal amount of the then outstanding Certificates by an instrument in writing delivered to the Company and the Trustee. Until a successor trustee shall be appointed by the holders of the Certificates as herein authorized, the Company by an instrument in writing executed by order of its Board of Directors shall appoint a trustee to fill such vacancy. A successor trustee so appointed by the Company shall immediately and without further act be superseded by a successor trustee appointed by the holders of the Certificates in the manner provided above. Every successor trustee appointed pursuant to this Section shall be a national bank, or a bank or trust company organized under the laws of the United States of America or any state thereof and having capital and surplus of not less than \$250,000,000, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

(d) The Company shall give notice of each resignation, removal or incapacity of the then Trustee or of a vacancy occurring in the office of the Trustee for any other cause and of each appointment by the Company of a successor trustee pursuant to paragraph (c) of this Section by giving written notice of such event by overnight courier to the holders of all outstanding Certificates.

Section 9.07. Acceptance of Appointment by Successor Trustee. Any successor trustee appointed as provided in Section 9.06 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the written request of the Company or of the successor trustee, upon payment of its charges then unpaid, the trustee ceasing to act shall execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments for more fully vesting in and confirming to such successor trustee all such rights and powers.

Section 9.08. Merger or Consolidation of Trustee. Any corporation qualified under the provisions of Section 9.06 into which the Trustee may be merged or with which it may be consolidated or any such corporation resulting from any merger or consolidation to which the Trustee shall be a party shall be the successor of the Trustee hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

Section 9.09. Return of Certain Moneys to Company. Notwithstanding any provision of this Agreement, any moneys paid to the Trustee which are applicable to the payment of the principal of or premium, if any, or interest on any Certificates which remain unclaimed for two years after the day when such moneys were due and payable shall then be repaid to the Company upon Request, and the holders of such Certificates shall thereafter be entitled

to look only to the Company for payment thereof and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however*, that before the repayment of such moneys to the Company as aforesaid, the Trustee may first publish a notice, in a newspaper of general circulation in the City of New York, in respect of the Certificates so payable and not presented and in respect of the provisions hereof relating to the repayment to the Company of the moneys held for the payment thereof.

ARTICLE TEN PREPAYMENT OF CERTIFICATES

Section 10.01. Right of Prepayment; Application of Prepayment. (a) The Certificates are required to be prepaid in part on the Surplus Deposit Date through the application of Deposited Cash to be applied thereto pursuant to Section 4.04 hereof or, at the option of the Company, as provided in Section 5.07, at 100% of the principal amount thereof to be prepaid, together with accrued interest to the date fixed for prepayment. Except as provided in this Article Ten, Section 5.07 and Article Six hereof, Certificates may not be prepaid prior to the maturity thereof. Any such prepayment shall be made pro rata among all outstanding Certificates.

(b) With respect to each Certificate the principal of which is to be prepaid in part, such prepayment shall be applied equally and ratably (to the nearest dollar) to the principal amounts that would have become due on each date following the date of such prepayment on which the principal of such Certificate was scheduled to be paid.

Section 10.02. Notice. (a) On or at any time not more than 45 days prior to the date fixed for prepayment, the Trustee shall send a statement of prepayment by overnight courier at least 30 days prior to the prepayment date to the holders of Certificates at their last addresses as they shall appear upon the registry books. Any statement which is sent in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the holder receives the statement.

(b) The statement of prepayment to each holder shall (i) specify the date for prepayment and the Section of this Agreement pursuant to which such prepayment is to be made, (ii) state that prepayment of the principal amount of the Certificates or portions thereof to be prepaid will be made by the Trustee only from and out of Deposited Cash or moneys paid to the Trustee by the Company and applicable thereto and, subject to the provisions of Section 3.02, such prepayment will be made at the Corporate Trust Office, upon presentation and surrender of Certificates so to be prepaid, (iii) state the aggregate principal amount of Certificates to be prepaid in whole or in part, whether any premium thereon will be paid and, in the case of any partial prepayment, the principal amount thereof to be so prepaid, (iv) if such Certificate is not being prepaid in whole, include a revised amortization schedule for such Certificate and (v) state that from and after such prepayment date interest on such Certificates or on the portions thereof to be prepaid will cease to accrue. The holders of Certificates prepaid in part, may, at their option and upon surrender thereof, receive new Certificates for the principal amounts remaining unpaid without charge

to such holders, or may note such prepayment on their Certificates without surrender thereof.

Section 10.03. Payment of Certificates. (a) The Certificates or portions thereof to be prepaid shall become due and payable on the prepayment date and from and after such date interest on such Certificates or portions thereof shall cease to accrue, and, there having been deposited with the Trustee on or before such date, an amount in cash equal to the aggregate principal amount of all the Certificates or portions thereof to be prepaid and the premium, if any, and interest accrued thereon, such Certificates or portions thereof shall no longer be deemed to be outstanding hereunder and shall cease to be entitled to the benefits of this Agreement except to receive payment from the moneys reserved therefor in the hands of the Trustee. The Trustee shall hold the prepayment moneys in trust for the holders of the Certificates or portions thereof to be prepaid and (subject to the provisions of Section 3.02) shall pay the same to such holders respectively upon presentation and surrender of such Certificates, unless any holder at its option elects to note such prepayment on its Certificates without surrender thereof, as provided in Section 10.02(b).

(b) Except as provided in Sections 3.02 and 10.02 hereof, all Certificates prepaid under this Article Ten shall be canceled by the Trustee and no Certificates shall be issued hereunder in place thereof.

ARTICLE ELEVEN MISCELLANEOUS

Section 11.01. Rights Confined to Parties and Holders. Nothing expressed or implied herein shall be construed to confer upon any person, firm or corporation, other than the parties hereto and the holders of the Certificates, any right, remedy or claim under or by reason of this Agreement or of any term, agreement or condition herein, and all the terms, agreements and conditions herein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Certificates.

Section 11.02. Binding upon Assigns. Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

Section 11.03. Notices. Any notice required or permitted to be given by any party hereto to any other party shall be in writing and shall be mailed by certified mail (return receipt) or sent by telex, telecopy or similar transmission or by hand or overnight courier, addressed as follows: (a) in the case of the Company, the address set forth for the Company in the definition of "*Company*" in Section 2.01 hereof, or such other address as may hereafter be furnished to the Trustee in writing by the Company, (b) in the case of the Trustee, the Corporate Trust Office, or such other address as may hereafter be furnished to the Company in writing by the Trustee, (c) in the case of any Initial Purchaser, to the address provided therefor in Annex I to the Purchase Agreement, and (d) in the case of any other holder of a Certificate, to the address registered on the Trustee's books for such

holder. Such notice shall be deemed to have been given on the date of actual receipt (or if such date is not a Business Day, the next Business Day).

Section 11.04. Effect of Headings; Date Executed; Governing Law; and Counterparts.

(a) The title page, Table of Contents and Article and Section headings herein are for convenience only and shall not affect the construction hereof.

(b) This Agreement shall be deemed to have been executed on the date indicated below the signature of the officer of the Trustee who signed it on behalf of the Trustee.

(c) The provisions of this Agreement shall be governed by the laws of the State of New York.

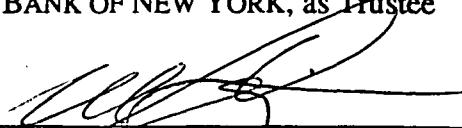
(d) This Agreement is being executed in several counterparts, each of which is an original and all of which are identical. Each counterpart of this Agreement is to be deemed an original hereof and all counterparts collectively are to be deemed but one instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than one counterpart.

(e) Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

IN WITNESS WHEREOF, each of the parties hereto, pursuant to due corporate authority, has caused this instrument to be duly executed in its corporate name by its officer, thereunto duly authorized, all as of the date first above written.

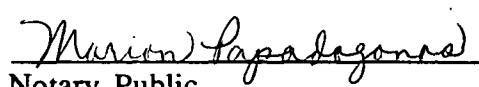
THE BANK OF NEW YORK, as Trustee

By


Name: W. T. CUNNINGHAM
Title: VICE PRESIDENT

STATE OF NEW YORK)
) SS
COUNTY OF NEW YORK)

On this 27th day of March, 1992, before me personally appeared W. T. CUNNINGHAM, to me personally known, who being by me duly sworn, says that he is the VICE PRESIDENT of THE BANK OF NEW YORK, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public

[NOTARIAL SEAL]

My commission expires:

MARION PAPADOGONAS
Notary Public, State of New York
No. 31-4842989
Qualified in New York County
Commission Expires May 31, 1993

SOUTHERN PACIFIC TRANSPORTATION
COMPANY

By *E. F. Grady*
Name: E. F. Grady
Title: Treasurer

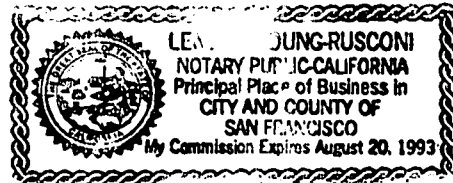
STATE OF CALIFORNIA)
) SS
COUNTY OF SAN FRANCISCO)

On this 27th day of March, 1992, before me personally appeared E. F. Grady, to me personally known, who being by me duly sworn, says that he is the Treasurer of SOUTHERN PACIFIC TRANSPORTATION COMPANY, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Lenora Young-Rusconi
Notary Public

[NOTARIAL SEAL]

My commission expires: August 20, 1993



**SOUTHERN PACIFIC TRANSPORTATION COMPANY
SCHEDULE I TO EQUIPMENT TRUST AGREEMENT**

BUILDER/EQUIPMENT	NUMBER OF UNITS	ROAD NUMBERS (INCLUSIVE)	ESTIMATED UNIT PRICE	ESTIMATED TOTAL	ESTIMATED MONTH OF DELIVERY
General Motors Corporation (Electro- Motive Division)	55	SP 9715 through SP 9769	\$26 Units @ \$1,278,007	\$70,281,975	March, 1992
			29 Units @ \$1,277,717		

GP-60 3800 HP four
axle diesel-electric
locomotives

.....

\$70,281,975.00

SCHEDULE II